

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of)	
)	
Distribution of 2014-2017)	Docket No. 16-CRB-0010-SD
Satellite Royalty Funds)	(2014-2017)
_____)	

**Multigroup Claimants' Response to Notice Requesting Comments,
and Opposition to Motion for Partial Distribution of 2015-2017 Satellite Royalties**

Worldwide Subsidy Group LLC (a Texas limited liability company) dba

Multigroup Claimants ("MGC") hereby responds to the Judges' Notice Requesting
Comments.

On September 15, 2021, the "Allocation Parties" moved for distribution of 95%
of the 2015-2017 satellite funds, reserving 5% for resolution of existing distribution
phase disputes. On March 14, 2022, the Judges issued a ruling published in the Federal
Register, seeking comments on the proposed partial distribution.¹

**I. BECAUSE OF THE INFORMATION THAT IS NOT PROVIDED BY THE
"ALLOCATION PARTIES", THE RESERVE REQUESTED BY THE
ALLOCATION PARTIES FOR DISTRIBUTION CONTROVERSIES IS
SIGNIFICANTLY INADEQUATE.**

¹ Notably, two months prior to such motion, on July 23, 2021, Multigroup Claimants moved for partial distribution of 2015-2017 satellite funds, seeking 50% of the average percentage amounts previously awarded to MGC in the 2010-2013 cable proceedings in the devotional programming category. The Settling Devotional Claimants were the only entity to object (Aug. 6, 2021), and opposed *any* distributions to Multigroup Claimants. On September 13, 2021, the Judges issued a *Notice Requesting Comments* on Multigroup Claimants' motion in the *Federal Register*, requiring comments no later than October 13, 2021. No further comments were submitted, but the Judges have yet to issue a ruling on Multigroup Claimants' motion.

The Allocation Parties maintain that a reserve of five-percent (5%) of the 2015-2017 Satellite Funds is sufficient to satisfy any distribution phase controversies that may arise in the future. This representation is made on little more than the say-so of the Allocation Phase parties. Initially, because of the means by which the Allocation Parties seek to keep their settlement confidential, it is impossible to discern the amounts allocable to any particular category – categories in which Multigroup Claimants and Global Music Rights LLC hold interests, holding secret information that Multigroup Claimants and Global Music Rights LLC will eventually be entitled to receive anyway. As a rationalization for the low reserve, the Allocation Parties point to distributions to Multigroup Claimants in the Program Suppliers and Devotional categories for a single year in which a sanction was imposed denying Multigroup Claimants the “presumption of validity”. No royalty is accorded to Multigroup Claimants for sports programming claims (which were dismissed during 2010-2013 because of issues that no longer exist); no royalty is accorded to Global Music Rights LLC. In effect, any person attempting to assess the reasonableness of a five-percent reserve is grappling in the dark.

Simply put, the proposed reserve figure is wholly inadequate, and could likely generate a scenario as currently exists for each of the 2000-2003 cable proceeding, 1999-2009 satellite proceeding, and 2010-2013 cable/satellite proceeding, where misallocations and overpayments have been identified, with no immediate consequence or action taken thereon, even after years of requests.

For example, in the 1999-2009 Satellite/2004-2009 Cable Consolidate Proceeding, Docket nos. 2012-6 CRB CD 2004-2009 (Phase II) and 2012-7 CRB SD

1999-2009 (Phase II), significant calculation errors were identified and addressed by the Judges in their January 11, 2021 order, including a direction that the Licensing Division recover over \$1 Million of overpayments to certain Allocation Phase parties. See *Joint Motion for Order Addressing Overpayment and Surplus Issues* (Sept. 10, 2021). By all appearances, no recovery of overpayments has occurred despite the passage of fifteen months.

In the 2000-2003 Cable Proceeding, a similar issue of overpayments exists. See *Second Order Directing Recalculation of Royalty Calculations* (Mar. 11, 2022) referencing *Order Directing Recalculation of Royalty Allocations in the Devotional Category and Seeking Additional Guidance* (Aug. 28, 2020), 2000-2003 Cable Proceedings, Docket no. 2008-2 CD 2000-2003 (Phase II)(Remand).

In the 2010-2013 Cable/Satellite Proceeding, the same. On February 4, 2021, the Judges issued their *Order Modifying Order Granting Multigroup Claimants' Third Motion for Final Distribution of 2010-2013 Satellite Royalty Funds*, Docket no. 14-CRB-0010-CD/SD (2010-2013), wherein the Judges noted that a shortfall existed, and ordered the Licensing Division to:

“take steps to invoke the repayment agreements that bind the allocation phase parties in order to recover the overpayments that those parties have received. Once the Licensing Division has recovered the overpayments, with interest, the Judges will order final distribution of those amounts to MGC.”

Id. Still, nothing occurred, prompting the Judges to issue its *Order Regarding Final Distribution of 2010-2013 Satellite Royalty Funds* on December 22, 2021, *again* ordering

the Licensing Division to perform the necessary calculations and overpayment recovery ordered almost a year prior.²

Clearly, some acceptable figure to hold in reserve exists. However, while a rather simple solution would be for the Allocation Parties to reveal to Multigroup Claimants the settlement percentages or amount allocated to the Program Suppliers, Devotional Programming, and Sports Programming categories, it remains problematic that the “Allocation Parties” have provided scant information for any person to assess what that figure may be.

In sum, the same entities that received the overpayments in the prior proceedings, and failed to return the overpayments on their own volition, are now asking for a partial distribution far in excess of any amount previously advanced. At this point, it is not the exception, but the norm, that overpayments have been identified with zero (timely) consequence. For this rather obvious reason, the pending motion for partial distribution

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² The authority of the Judges to issue any order upon the Licensing Division appears to be at issue, as while the Judges have frequently issued orders upon the Licensing Division, IPG’s motion that the Judges direct the Licensing Division to make final disbursement of 2000-2003 cable royalties was denied on the grounds that the Judges “lack authority to issue orders to the Librarian of Congress or those acting under her authority”. See *Order Denying IPG Emergency Motion to Compel Licensing Division* (Apr. 10 2020), Docket no. 2008-2 CD 2000-2003 (Phase II) (Remand).

should be dismissed absent revelation to any potentially-interested party what allocation has been agreed upon for any category in which the interested party retains a claim.

Respectfully submitted,

Dated: April 13, 2022

_____/s/_____
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CERTIFICATE OF SERVICE

I certify that on April 13, 2022, I caused a copy of the foregoing pleading to be served on all parties registered to receive notice by eCRB by filing through the eCRB filing system.

/s/

Brian D. Boydston, Esq.